

AMENDED IN ASSEMBLY APRIL 21, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 2919

Introduced by Assembly Member ~~Berryhill~~ Garcia

February 22, 2008

~~An act relating to crime.~~ *An act to amend Section 17533.6 of the Business and Professions Code, relating to advertising.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2919, as amended, ~~Berryhill~~ Garcia. ~~Crime: retail crime.~~ Advertising.

Existing law makes it unlawful for any person, firm, or corporation, or association that is a nongovernmental entity to solicit funds or information by means of a mailing, electronic message, or Internet Web site that contains a seal, insignia, trade, or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any state or local government connection, approval, or endorsement, unless the nongovernmental entity has an expressed connection with a state or local entity or unless the solicitation contains a specified disclosure. A violation of these or other provisions related to advertising is a crime.

This bill would require a private, for-profit business that sends a mailing offering to assist the recipient in dealing with a governmental agency to state on the envelope and in the mailing that the business is not a governmental agency and is not associated with the governmental agency, and to include in the mailing the contact information for the governmental agency.

Because this bill would impose new advertising requirements, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law contains various provisions relating to crime.~~

~~This bill would state the intent of the Legislature to enact legislation to reduce organized retail crime.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17533.6 of the Business and Professions
- 2 Code is amended to read:
- 3 17533.6. (a) It is unlawful for any person, firm, corporation,
- 4 or association that is a nongovernmental entity to solicit
- 5 information, or to solicit the purchase of or payment for a product
- 6 or service, or to solicit the contribution of funds or membership
- 7 fees, by means of a mailing, electronic message, or Internet Web
- 8 site that contains a seal, insignia, trade or brand name, or any other
- 9 term or symbol that reasonably could be interpreted or construed
- 10 as implying any state or local government connection, approval,
- 11 or endorsement, unless the requirements of ~~subdivision (a) or (b)~~
- 12 paragraph (1) or (2) have been met, as follows:
- 13 ~~(a)~~
- 14 (1) The nongovernmental entity has an expressed connection
- 15 with, or the approval or endorsement of, a state or local government
- 16 entity, if permitted by other provisions of law.
- 17 ~~(b)~~
- 18 (2) The solicitation meets both of the following requirements:
- 19 ~~(1)~~
- 20 (A) The solicitation bears on its face, in conspicuous and legible
- 21 type in contrast by typography, layout, or color with other type on
- 22 its face, the following notice:

1 “THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED
2 OR ENDORSED BY ANY GOVERNMENT AGENCY, AND
3 THIS OFFER IS NOT BEING MADE BY AN AGENCY OF
4 THE GOVERNMENT.”

5 (2)

6 (B) In the case of a mailed solicitation, the envelope or outside
7 cover or wrapper in which the matter is mailed bears on its face
8 in capital letters and in conspicuous and legible type, the following
9 notice:

10 “THIS IS NOT A GOVERNMENT DOCUMENT.”

11 (b) Any private, for-profit business that sends a mailing that
12 offers to assist the recipient in dealing with a governmental agency
13 shall do both of the following:

14 (1) State on the envelope and in the mailing that it is not a
15 governmental agency and is not associated with the governmental
16 agency referenced.

17 (2) Include in the mailing the contact information for the
18 governmental agency referenced.

19 SEC. 2. No reimbursement is required by this act pursuant to
20 Section 6 of Article XIII B of the California Constitution because
21 the only costs that may be incurred by a local agency or school
22 district will be incurred because this act creates a new crime or
23 infraction, eliminates a crime or infraction, or changes the penalty
24 for a crime or infraction, within the meaning of Section 17556 of
25 the Government Code, or changes the definition of a crime within
26 the meaning of Section 6 of Article XIII B of the California
27 Constitution.

28 ~~SECTION 1. It is the intent of the Legislature to enact~~
29 ~~legislation to reduce organized retail crime.~~